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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,359	09/15/2000	Guy Feuilloley	Q60261	3569

7590

12/28/2004

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EXAMINER

CHIN, BRAD Y

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/622,359

Applicant(s)

FEUILLOLEY ET AL.

Examiner

Brad Y. Chin

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/16/2000, 9/15/2000, and 9/23/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) 1,3,13-14,17,19,21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>16 August 2000</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-13, in the reply filed on 23 September 2004 is acknowledged.

The traversal is on the ground(s) that the claims before the Examiner for examination were amended pursuant to Article 34 of PCT and for which the PCT examiner issued a favorable IPER. Additionally, Applicant directs the Examiner's attention to the corresponding European Patent, which was issued in 2001 (see EP 1 056 481 B1) with the claims as amended during the International Application phase. Accordingly, the traversal is on the grounds that the present application does in fact relate to a group of inventions so linked as to form a single general inventive concept, and therefore should be examined together.

Pursuant to PCT Rule 13 set forth in 37 CFR 1.475 and 37 CFR 1.499, Examiner concludes that the present application and the claims before the Examiner as amended do in fact relate to a group of inventions so linked as to form a single general inventive concept. Accordingly, Examiner removes the Restriction Requirement dated 24 March 2004 and examines claims 1-30 together.

Claim Objections

2. Many of Applicant's claims are objected to because of informalities. Examiner has identified only a few of such claims as follows:

Claims 1, 3, 13-14, 17, 19, and 21 are objected to because of the following informalities:

Regarding claim 1, Applicant's use of both of the words, "the" and "said" in the last line of the claim are redundant with respect to antecedent basis. Applicant should

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remove the word, "said", for consistency. Proper antecedent basis is previously provided for in the claim language.

Regarding claim 3, the phrase, "is chosen from among the agents available in liquid phase, such as hydrogen peroxide, peracetic acid or the like" is an improper Markush group. It is suggested Applicant amends the claim as follows: "is chosen from the group consisting of hydrogen peroxide or peracetic acid."

Regarding claim 13, Applicant should correct the spelling of the word "dry" in the second line of the claim.

Regarding claim 14, Applicant should amend the claim language for grammatical errors, i.e. "comprises the means (1) for injection of a vaporizable sterilizing agent, and evaporator (2) across from the output of the injection means, aspiration means opening out..."

Regarding claim 17, Applicant should add the missing letter, "e" for the word "the" in the fourth line of the claim.

Regarding claim 19, Applicant should amend the claim language to more particularly identify the one [end] at which the aspiration tube is located in the hollow body. Examiner understands the intent of Applicant's claim, but the language should be made clearer.

Regarding claim 21, Applicant should change the word; "have" to "has" for proper grammar.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-30 are generally narrative and indefinite, failing to conform to current U.S. practice (See 37 C.F.R. 1.75). They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Where Applicant's claims set forth a plurality of elements or steps, each element or step of the claims should be separated by a line indentation. Additionally, Applicant should consistently use the gerund form of the word introducing each step in Applicant's claims, i.e. "carrying out", "causing a gaseous current", "implementing", etc. For example, Applicant does not properly construct the claim language of claim 4 in claiming the step of suppressing the particles or other non-adherent elements present in the hollow body. Similarly, Applicant does not properly construct the claim language of claim 7 in claiming the step of withdrawing the remaining sterilizing agent following the vaporizing phase.

In claims 1-30, Applicant improperly uses the phrase, "characterized in that" as a substitution for the proper use of (1) a transitional phrase, such as "comprising" [see claims 1 and 2] and (2) the word, "wherein" [see claims 3-13 and 15-29]; and (3) to proceed a transitional phrase [see claims 14 and 30]. Applicant should remove such language from Applicant's claims to conform to current U.S. practice.

4. Many of Applicant's claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner has identified only a few of such claims as follows:

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Claims 1-3, 12, 15, 24-26, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-2, the phrases, "of a consistent type", "opening out", and "close to its opening" are indefinite claim language.

Regarding claim 3, the phrases, "such as" and "or other" render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 12, the phrase, "acting in the latter" is indefinite claim language.

Regarding claim 15, the phrase, "essentially corresponding to those of the interior opening" is indefinite claim language.

Regarding claim 24, the phrase, "is at a distance from its opening in order to direct the heat into all of the hollow body" is indefinite claim language.

Regarding claim 25, the phrase, "close to its base" is indefinite claim language.

Regarding claim 26, the phrase, "the tube is arranged at the end of the hollow body opposite to that close to which the heat generator is closed" is indefinite claim language.

Regarding claim 30, Applicant duplicates claim 14, reciting only a device, which is according to claim 14, and an intended use or purpose. Applicant's claim language, "Installation for manufacturing and/or filling materials" functions as preamble language and serves only to describe the intended use or purpose for the claimed device.

Allowable Subject Matter

5. Claims 1-30 would be allowable if rewritten to overcome the objection(s) and rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action.

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The following is a statement of reasons for the indication of allowable subject matter: Claims 1 and 2 include the limitations of sterilizing hollow bodies, having one or more openings, with a sterilizing agent that has been previously vaporized, providing for a means of aspiration, which opens out into the hollow body opposite the hollow body's opening, to guide the vaporized agent toward all of the surfaces of the hollow body. Numerous prior art references teach the use of vaporized sterilizing agents, more particularly hydrogen peroxide, as a sterilant for sterilizing hollow bodies; however, the references fail to teach nor would it have been obvious to combine references to achieve an aspiration means, which opens out into the hollow body opposite the hollow body's opening, for guiding the vaporized agent toward all of the surfaces of the hollow body. Accordingly, claims 1 and 2 and all dependent claims, claims 3-30, therefrom are free of the prior art and would be allowable if rewritten to overcome the aforementioned objection(s) and rejection(s).

Conclusion

6. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: McConnell [U.S. Patent No. 3,042,533]; Grafingholt [U.S. Patent No. 3,795,483]; Foti [U.S. Patent No. 4,992,247]; and Clusserath [U.S. Patent No. 5,031,673].

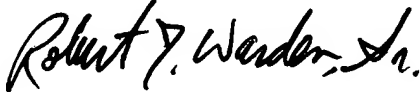
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brad Y. Chin whose telephone number is 571-272-2071. The examiner can normally be reached on Monday – Friday, 8:00 A.M. – 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden, can be reached at 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

byc
December 21, 2004


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